

~~CONFIDENTIAL~~May 16th, 1960COCOM Document No. 3984 BCOORDINATING COMMITTEERECORD OF DISCUSSIONON

ORAL REPORT BY THE CHAIRMAN OF THE SUB-COMMITTEE ON  
EXPORT CONTROLS REGARDING THE SUB-COMMITTEE'S MEETINGS  
ON THE 26th, 27th and 28th April, 1960

29th April, 1960

Present: Canada, France, Germany, Italy, Netherlands, United Kingdom, United States.

References: COCOM Documents Nos. 3519, 3677, 3690, 3870, 3872, 3877, 3912, 3921, 3941, 3963, 3965, 3966, 3974, Sub-C.(52) 17, Sub-C.(59) 2, 11th Addendum to Annex 12 to COCOM 407.

1. The CHAIRMAN stated that the Committee had met for the purpose of hearing an oral report by the Chairman of the Sub-Committee on Export Controls regarding the meetings held from the 26th to the 28th April.
2. The CHAIRMAN of the SUB-COMMITTEE stated that in making his oral report he would deal with subjects in the order shown in the Sub-Committee's draft Agenda (COCOM 3941).
3. The SUB-COMMITTEE had begun by approving the draft Agenda, to which they had agreed to add, in the section dealing with the IC/DV system, a question raised by the Netherlands Delegation (see paragraph 8 below). The report on the previous session (COCOM Sub-C.(59) 2) had not given rise to comment.

4. Diversions.

(i) The Sub-Committee had reverted once more to the matter of the boracite of Turkish origin which had been the subject of careful study during the May 1959 session (COCOM Sub-C.(59) 2, paragraphs 10 - 20), when the Sub-Committee had expressed the wish to learn the final destination of this product, which had been held by the Greek authorities. The Greek Delegate had taken note of the concern expressed by the Sub-Committee and had undertaken to supply the information requested to the Coordinating Committee without delay. The Delegates of Germany and the United Kingdom had stated that their Governments had made enquiries about this matter, but that no legal action would be undertaken in their countries in this connexion.

(ii) As regards the attempted diversion of colemanite of Turkish origin which had been notified by the German authorities in COCOM 3677, the Sub-Committee had noted the usefulness of the IC/DV system, which in this instance had prevented an illegal transaction. In view of the continuing efforts of Soviet Bloc countries to obtain borax and boron products by illicit means, the Sub-Committee had recommended that participating countries should observe great prudence in this field and should keep in frequent touch with one another regarding exports and imports of these products.

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(iii) On the question of the transit of Argentine borax, the United States Delegation had notified two cases of fraud, one successful and the other frustrated (COCOM 3966). The Sub-Committee had taken note of two aspects of these cases:

- (a) The banking aspect had given rise to a special difficulty, because the financial transaction had been carried out in Germany by a Netherlands national, a circumstance which had made it impossible up to the present for the authorities of either of these two countries to take steps against the individual concerned; the German and Netherlands Delegations had however stated that the competent authorities were at present seeking means to prosecute him. The study of this aspect of the question had given the Sub-Committee an opportunity to review the application of their financial controls.
- (b) The physical aspects of this consignment had revealed that the goods which had not been unloaded had passed successfully through the ports of several participating countries without being held up owing to the fact that the country of origin - in this case the Argentine - had given no indication to this effect. The second instalment, on the other hand, had been stopped in Brazil at the request of the Argentine authorities. The Sub-Committee had noted that the Argentine applied the IC/DV system and that a new law on export controls which was being studied by the Argentine Parliament would doubtless make it possible to strengthen the legal basis for the controls carried out by that country. They had noted nevertheless that the Argentinian failure to cooperate in the TAC scheme continued to constitute a loophole in control over strategic items originating in that country. The United States authorities were continuing their efforts to persuade the Argentine Government to participate in the TAC scheme, but were not able as yet to count upon a favourable outcome.

(iv) The Belgian and United Kingdom Delegations had informed the Sub-Committee of various cases of diversion or attempts at diversion as a sequel to which severe penalties had been imposed in their countries. Finally, the German Delegation had given the Sub-Committee details of the experience of the German authorities as regards the items most frequently involved in diversion attempts and as regards the countries which were most frequently used as forwarding channels to the Soviet Bloc, namely Sweden, Switzerland, Yugoslavia and, recently, Egypt (COCOM 3963). The Sub-Committee had come to the conclusion that the examination of these characteristic diversion cases had been extremely useful because it had demonstrated the need to strengthen the measures taken prior to the granting of export licences, to intensify contacts between the competent departments in the various participating countries and to carry out technical enquiries as well as counter-checks through diplomatic channels in order to make sure that the requests submitted were justified.

##### 5. IC/DV System.

The Sub-Committee had then undertaken the study of the IC/DV system and had noted that the first point on the agenda under this heading, which concerned Nigeria, had been settled on a bilateral basis between the Japanese and United Kingdom authorities. They had also noted that the second item under this heading, concerning the export of strategic goods for exhibition and demonstration purposes, was to be discussed by the Coordinating Committee in the ensuing weeks.

6. The question of global Import Certificates had been the subject of a lengthy examination; the Sub-Committee had first discussed the question of indicating the quantity and value of the items concerned and afterwards that of the setting of a limit for the validity of the certificates. Each Delegation had explained the system at present in force in their country. It had thus become clear that none of the participating countries

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declined to accept global Import Certificates, whether or not they bore an indication of the quantity and value of the items. As, however, there seemed to be some confusion on this score, the Sub-Committee referred to the ruling established in this connexion in 1952 (COCOM Sub-C.(52) 17, paragraph 10) and agreed to clarify it by defining global Import Certificates as follows: "A global Import Certificate should concern a single item, clearly defined, despatched by a single exporter and addressed to a single importer". As regards the question of indicating details as to quantity and value, the Sub-Committee had agreed unanimously to recommend that global Import Certificates should henceforward give particulars of the quantity and/or of the value of the items they covered. On the question of the duration of validity the Sub-Committee had been within sight of agreement, but a question of detail had led them to retreat somewhat from their decision and to content themselves with recommending that all Import Certificates should be submitted within 6 months to the authorities of the exporting country and that, from the date of that submission, they should be valid for twelve months. This validity period might be reduced in the case of countries operating a quota system for their imports. These rare cases would be left to the discretion of the country involved. It had been understood moreover that these recommendations did not affect the nature of the export licences issued in conformity with global Import Certificates, as these licences could be either blanket licences, or successive licences issued within the framework of the extended time limits provided for. The Sub-Committee had considered that these arrangements should make it possible to adopt a uniform method.

7. The Sub-Committee had taken note of the proposed transmittal letter to accompany duplicate Import Certificates sent to non-member countries which had been submitted by the United States Delegation (11th Addendum to Annex 12 to COCOM 407). They recommended to the Coordinating Committee the adoption of this text. Noting furthermore that certain Member Governments had not as yet submitted a list of the third countries to which they sent duplicates of Import Certificates in accordance with the recommendations set out in paragraph 83 of Sub-C.(59) 2, the Sub-Committee had invited the Secretariat to complete this documentation.

8. In concluding their study of the operation of the IC/DV system, the Sub-Committee had examined two matters to which their attention had been drawn by the Netherlands and Japanese Delegations respectively.

(a) The question raised by the Netherlands Delegation (COCOM 3975) concerning the application of the IC/DV system for the purchase of United States military surplus goods located in the United Kingdom had found a solution: the Delegate from the United States Defense Ministry had indicated that the United States authorities would no longer call for Import Certificates in the case of surplus goods located in the United Kingdom, as the competent United Kingdom officials themselves applied the IC/DV system in cases of this nature, for which in their view they alone were responsible. Replying to a question by the German Delegate, the United States Delegate had added that if other participating countries wished to assume the same responsibility in the case of surplus goods located on their territory, they should themselves get into touch with the United States authorities and examine the possibility of adopting a system similar to that at present enforced in the United Kingdom.

(b) The Japanese Delegation had asked whether a second Import Certificate should be issued in the event of the reimportation of an item which had been sent back to its country of origin for the purpose of undergoing repairs. The Sub-Committee had considered that in general a second Import Certificate should be issued in cases of this nature, but that the practice might vary in accordance with the regulations of the exporting countries.

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The Sub-Committee had begun by studying the first item under this heading on the agenda, concerning the application of the T.A.C. scheme in cases where the resident of a participating country acted as a principal in a transaction involving the shipment to the Soviet Bloc of goods originating in a country not cooperating in the scheme. The Sub-Committee had taken note in this connexion of the details supplied respectively by the United States and United Kingdom Delegations regarding the system applied in their countries (COCOM 3519 and 3872). They had agreed moreover that further statements from participating countries as to the operation of the T.A.C. scheme in their respective countries were unnecessary, since the replies to the T.A.C. questionnaire submitted two years previously had supplied all the required information (COCOM 3195.1 to .12). The United States Delegation, however, had expressed the hope that Member Governments would, as the United States authorities had done (COCOM 3519), pass on any suggestions they might have as to the means of closing the loopholes in the T.A.C. scheme to which attention had been drawn by the Working Group set up by the Sub-Committee in 1958.

10. The Sub-Committee had noted that the T.A.C. scheme was in fact only applied on rare occasions and that in the event of fraudulent transactions the difficulty lay in identifying the principal party, which in most cases could only be done by means of enquiries carried out a posteriori. They agreed in this connexion to emphasise that the best way of preventing such transactions would be to strengthen source controls in non-member countries which were important producers of strategic items.

11. Cooperation by non-member countries.

The Sub-Committee then examined the question of cooperation by non-member countries in the control systems and agreed that in the course of the following session they would examine whether any useful purpose would be served by a fresh compilation of statistics as to Import Certificates and Delivery Verification forms issued or received by member countries and covering commercial transactions with participating non-member countries. Proceeding to an exchange of views concerning the various non-member countries cooperating in the scheme, the Sub-Committee examined the situation in the undermentioned countries.

(a) Austria

The German and United Kingdom Delegations voiced their doubts regarding the strict application of controls in this country. The United States Delegation, however, gave the Committee some reassurance and stated that the IC/DV system in particular was taken very seriously in Austria. Although the T.A.C. scheme was not applied there, the United States Delegation believed that some degree of control was provided over transit consignments through the application of a transactions control. In their memorandum dated the 15th March 1960 (COCOM 3921) the United States Delegation had indicated that the United States Ministry of Commerce carried out enquiries prior to the issuance of export licences as well as a posteriori checks when they considered this necessary or desirable in connection with exports to Austria of goods of United States origin. The Netherlands Delegation having enquired what controls were applied in the free port of Linz, which, they felt, might constitute a loophole in the existing system, the United States Delegation stated that they could not give any details at present and would be glad to receive any further information which the Netherlands Delegation might be able to supply at a later date. The Sub-Committee agreed in conclusion to invite the authorities of participating countries to be extremely prudent in dealing with applications to export strategic items to Austria and especially to the free port of Linz.

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(b) Yugoslavia

In a memorandum dated the 11th February 1960 (COCOM 3877) the United States Delegation had communicated the sole text of the import certificates recently adopted by the Yugoslav authorities, who had shown themselves unwilling moreover to supply duplicates of these documents, as they held that the grained paper was adequate to allow of positive identification. This same document indicated that the Yugoslav authorities would be prepared upon request to issue End-Use Certificates on a selective basis. The German and Netherlands Delegations had expressed doubts as to the efficacy of the controls carried out in Yugoslavia and had given the Sub-Committee information regarding various cases of counterfeiting of documents. An enquiry carried out by the Netherlands authorities had revealed that two of the officials mentioned in paragraph 9 of the United States memorandum as being accredited to certify Yugoslav documents no longer belonged to the Yugoslav Federal Chamber of Foreign Trade, but had gone into private business. The United States Delegation had undertaken to carry out further research on this matter and the Sub-Committee had agreed to invite the authorities of participating countries to exercise great care in order to obtain assurances as to the validity of Yugoslav control documents.

(c) Liechtenstein

In a memorandum dated the 9th March 1960 (COCOM 3912) the United States Delegation had indicated that, in view of the Customs Union existing between Switzerland and Liechtenstein, Swiss Blue Certificates could be asked for in the event of exports to this country.

(d) Switzerland

In a memorandum dated the 29th September 1959 (COCOM 3690) the United States Delegation had explained the transit control system applied by the Swiss Government. It was to be borne in mind that this communication had been a confidential one. The French Delegation having recalled the question raised by the German Delegation during the Sub-Committee's previous session (COCOM Sub-C.(59) 2, paragraph 128) the United States Delegation had stated that they would endeavour to collect information on this matter. The Sub-Committee had noted that the form of transit licence issued by the Swiss Government was not known, but that participating countries could obtain from the Swiss Federal Political Department, through diplomatic channels, useful information regarding any transactions which interested them.

(e) Sweden

In a memorandum dated the 22nd April 1960 (COCOM 3965) the United States Delegation had given details of the new measures adopted by the Swedish Government in connexion with export controls. The Sub-Committee had noted that, while the Swedish "Tullsedel" document might be regarded as sufficient proof of the importation of goods into Sweden, no real guarantee existed as to non-reexport of these goods, which, according to the terms of the new Swedish regulations, would be free in the event of reexport to a Free World country; in these circumstances there existed a considerable risk of diversion in the course of reexportation. The German Delegation had referred to a case of reexportation. The German Delegation had referred to a case of substitution of goods despite the issuance of a Tullsedel. The Netherlands Delegation on the other hand had stated that in their Government's experience it had proved possible to obtain from the Swedish Ministry for Foreign Affairs useful information about the reputation of Swedish firms and about the contracts it was possible to offer them. The Sub-Committee had agreed in conclusion to recommend that, in view of the liberalisation of the export controls applied by the Swedish Government, the authorities in participating countries should strengthen their own controls prior to the granting of export licences.

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(f) Argentina

In a memorandum dated the 22nd April 1960 (COCOM 3966, paragraph 13) the United States Delegation had indicated that the Argentine had recently strengthened their export controls. This question had already been referred to in the present report (see paragraph 4(iii) above).

12. The United States Delegation had stated that the United States authorities had communicated copies of the revised International Lists to the authorities of cooperating non-member countries.

13. The Sub-Committee had emphasised the usefulness of the list of names and addresses of the authorities in non-member countries responsible for applying the control procedures (Secretariat Paper No. 103). They had agreed to recommend that the Secretariat should draw up a similar document grouping the addresses of the competent departments in participating countries. Delegations were consequently invited to supply the following information to the Secretariat:

Names and addresses of the departments issuing Import Certificates
" " " " " departments issuing End-Use Certificates
" " " " " departments issuing Transit
Authorisation Certificates
" " " " " departments to which duplicates of Import Certificates should be sent.

14. Under the heading of Other Business the Sub-Committee had been apprised of a question raised by the French Foreign Trade Department in connexion with the difficulty of coordinating the French customs nomenclature and the International Lists. Delegations had exchanged views on this matter. The French Delegation had taken note of the information supplied.

15. The United States Delegation having asked whether other Delegations thought that continuation of publication of the Commodity Identification Manual would be useful, the Sub-Committee as a whole had expressed lively gratitude to the United States departments responsible for this publication, whose continuance was warmly desired by all Member Governments. The Sub-Committee would welcome the distribution of several copies of the Manual to each participating country.

16. The Sub-Committee had finally reviewed the questions which they had referred to the Coordinating Committee at the close of their previous session (Secretariat Paper No. 106). They had noted that three questions remained pending: the question of an Observation List, the question of the definition of the term "State Organisations", and lastly that of the setting up of a working group composed of officials from the control departments.

17. Finally, as regards the date of the Sub-Committee's next meeting, all Delegations had agreed to leave this matter to be decided by the Coordinating Committee after the Summer Recess.

18. The CHAIRMAN of the SUB-COMMITTEE stated in conclusion that the study of the control systems which the Sub-Committee had carried out had enabled them to take note that the IC/DV system worked well and that the T.A.C. scheme for transactions and financial controls was very useful. Loopholes which had been observed could be ascribed on the one hand to non-member countries producing strategic goods; on the other hand, loopholes might be caused by countries such as Austria, Sweden, Switzerland, Yugoslavia and, more recently, Egypt, which constituted a forwarding network which would have to be blocked up. In this connexion, the Chairman of the Sub-Committee wished to emphasise the need to strengthen prior controls without neglecting diplomatic channels. The Chairman ended by expressing his gratitude to Delegates for their valuable cooperation in the Sub-Committee's work.

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19. The FRENCH, GERMAN, UNITED KINGDOM and UNITED STATES Delegates having thanked the Chairman of the Sub-Committee for his very clear report and for his admirable Chairmanship of the session just concluded, the CHAIRMAN of the Coordinating Committee, speaking in the name of all Delegations, paid tribute to the Chairman of the Sub-Committee for the very useful results obtained. This session had demonstrated once again the fundamental part played by the departments responsible for implementation of the controls which ensured the harmonious application and operation of the Committee's decisions, thus serving the common interests of all Free World countries and constituting an edifying example of spontaneous cooperation.

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